

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FILED

JAN 29 2019

Clerk, U.S. District Court
District Of Montana
Missoula

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NICKOLAS WILLIAM POVSHA,

Defendant.

CR 18-47-BU-DLC

FINDINGS AND
RECOMMENDATION
CONCERNING PLEA

The Defendant, by consent, has appeared before me under Fed. R. Crim. P. 11 and has entered a plea of guilty to one count of possession with the intent to distribute controlled substances, in violation of 21 U.S.C. § 841(a)(1) (Count IV) and one count of possession of a firearm in furtherance of a drug trafficking crime in violation of 18 U.S.C. § 924(c) (Count VI) as set forth in the Indictment. Defendant further agrees to the forfeiture allegation in the Indictment. In exchange for Defendant's plea, the United States has agreed to dismiss Counts I-III, V, and VII of the Indictment.

After examining the Defendant under oath, I have made the following determinations:

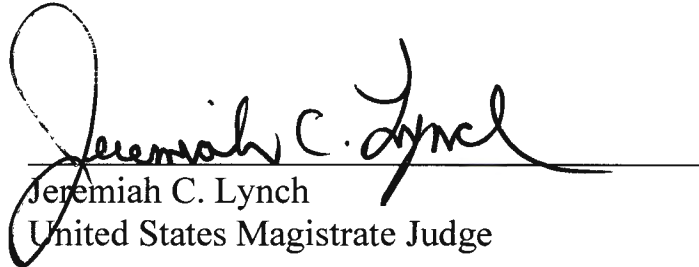
1. That the Defendant is fully competent and capable of entering an informed and voluntary plea to the criminal offense charged against him, and an informed and voluntary admission to the allegation of forfeiture;
2. That the Defendant is aware of the nature of the charge against him and the consequences of pleading guilty to the charge;
3. That the Defendant understands the allegation of forfeiture and the consequences of admitting to the allegation;
4. That the Defendant fully understands his constitutional rights, and the extent to which he is waiving those rights by pleading guilty to the criminal offense charged against him, and admitting to the allegation of forfeiture;
5. That both his plea of guilty to the criminal offense charged against him and his admission to the allegation of forfeiture are knowingly and voluntarily entered, and are both supported by independent factual grounds sufficient to prove each of the essential elements of the criminal offense charged and the legal basis for the forfeiture.

The Court further concludes that the Defendant had adequate time to review the Plea Agreement with counsel, that he fully understands each and every provision of the agreement and that all of the statements in the Plea Agreement are true. Therefore, I recommend that the Defendant be adjudged guilty of Counts IV

and VI of the Indictment, that sentence be imposed, and that the agreed forfeiture be imposed against Defendant. I further recommend that Counts I-III, V, and VII of the Indictment be dismissed.

This report is forwarded with the recommendation that the Court defer a decision regarding acceptance until the Court has reviewed the Plea Agreement and the presentence report.

DATED this 29th day of January, 2019.


Jeremiah C. Lynch
United States Magistrate Judge